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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,568	07/02/2001	James E. Dickens	010281	9702

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EXAMINER

MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/897,568

Applicant(s)

DICKENS, JAMES E.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the third office action for U.S. Application 09/897,568 for a Cable Feed Bushing and Method of Installing a Cable Through a Wall or Other Structure filed by James E. Dickens on July 7, 2001.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-6 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosan, Sr. et al. in view of Rudolph. Rosan, Sr. et al. discloses a cable support apparatus with a body portion (14) and a substantially planar head portion (16) with a first surface that is integrally attached to the body portion. There is a passageway extending through the body and head portion, and there is a spiral thread on an exterior surface of the body portion. There is also a second surface (any one of the six sides of the head 16) that intersects the first surface and is substantially smooth.

Rosan, Sr. et al. does not disclose a pair of holes on the head of the cable support and a installation tool with engagement projections protruding therefrom corresponding to the holes, whereby a rotational force is applied with the tool on the bushing to cause the bushing to be screwed into a hole in a wall. Rudolph discloses a

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screw (10) with a body portion that has an exterior surface with threads and a head portion (16). The head portion has installation formations in the form of a pair of diametrically opposed holes (18). The screw can be screwed into a wall by using an installation tool (20) with engagement protrusions (22) and providing a rotational force on the screw, thereby allowing the screw to be rotated in either direction. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a head portion on the cable support apparatus taught by Rosan, Sr. et al. such as the head portion taught by Rudolph for the purpose of providing a simplified means to secure the apparatus into a structure through rotation of an appropriate installation tool.

Claims 12-14 are all related to providing paint or wall paper to the head of the bushing and exterior surface for aesthetic purposes. Although Rosan, Sr. et al. in view of Rudolph does not disclose those features, they are a matter of design preference and would have been obvious to one of ordinary skill in the art at the time of the present invention.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosan, Sr. et al. in view of Rudolph, in further view of Applicant's disclosure. Rosan, Sr. does not disclose a cable support apparatus with a conical shaped body portion. However, page 7, lines 21-23 of Applicant's specification indicate that the body portion can also be cylindrical shaped (as taught by Rosan Sr.) and the shape of the body seems to merely be a matter of engineering preference. The thickness of the head portion is also a matter of engineering preference. Rosan, Sr. does not specifically

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disclose a head portion and body portion made of a polymeric material. However, page 11, line 22 of Applicant's specification indicates that the bushing could also be made of metal and the material used seems to be a matter of engineering preference, as well.

Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosan, Sr. et al. in view of Rudolph, in further view of Tschanz. Rosan, Sr. in view of Rudolph does not disclose a pre-existing hole in a structure for receiving the cable support. Tschanz discloses a structure (12) with a pre-existing aperture (14) for receiving the cable support. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized a pre-existing hole in a structure, as taught by Tschanz, for facilitating the insertion of the cable support taught by Rosan, Sr. in view of Rudolph.

Claims 16-18, and 20-22 are all related to providing paint or wall paper to the head of the bushing and exterior surface for aesthetic purposes. Although Rosan, Sr. et al. in view of Rudolph, in further view of Tschanz, does not disclose those features, they are a matter of design preference and would have been obvious to one of ordinary skill in the art at the time of the present invention.

### ***Response to Arguments***

Applicant's arguments filed January 21, 2003 have been fully considered but they are not persuasive. For clarification, the language that Applicant cites from the previous action was not meant to be interpreted as Rosan, Sr. failing to disclose a pair of holes on the head of the cable support, but rather that Rosan Sr. failed to disclose a pair of

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holes on the head of the cable support in combination with an installation tool to correspond to the holes in the head portion.

In response to Applicant's argument that claims 12-14, 16-18, and 20-22 are not a matter of a design preference, the color of the head portion is a matter of aesthetic design. Changing the aesthetic design of a structure by changing the color would be obvious to a person of ordinary skill in the art, as would changing the size for aesthetic design.

In response to Applicant's argument that the conical shape is not a matter of engineering preference, the lines that Applicant cites read, "Those of ordinary skill in the art will appreciate that the conical shape will further serve to retain the bushing in place". The modification is something that would be obvious to one of ordinary skill in the art and is therefore a matter of engineering preference.

In response to Applicant's argument that the use of a polymeric material, rather than the use of a metal is not a matter of engineering preference, lines 15-17 read, "Those of ordinary skill in the art will appreciate that the tool may be fabricated from metal or rigid plastic". Therefore, it would appear to be obvious to one of ordinary skill in the art to use plastic, rather than metal.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is

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(703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

*SM*

Steven M. Marsh

March 31, 2003

*Anita King*  
ANITA KING  
PRIMARY EXAMINER